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EXAMINER

LIU, SUE XU

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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## **Continuation Sheet**

### **Item 3**

Applicant's proposed amendments would bring new structural and/or functional limitations (e.g. the recited additional method steps/reagents) into the pending claims (e.g. Claims 24 and 42), and thus would require new searches in both prior art considerations and other issues for patentability determination. Thus, the proposed claim amendments as filed on 8/25/08 will not be entered.

### **Item 11**

Applicants' arguments of the outstanding rejections are based on the proposed claim amendments. As discussed under Item 3, the instant claims as would be amended are not entered due to consideration of new issues.

The following claim rejections as set forth in the previous office action are maintained for the reasons of record:

A.) Claims 37 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

B.) Claims 24-29, 35, 39, 41, 42 and 47 are rejected under **35 U.S.C. 102(b)** as being anticipated by Rondon et al (Applied and Environmental Microbiology. Vol. 66(6): 2541-2547; 06/2000; cited in IDS) and as evidenced by Rondon et al (PNAS. Vol.96: 6451-6455; 1999.)

C.) Claims 24-32, 35, 39-42 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rondon et al (Applied and Environmental Microbiology. Vol. 66(6): 2541-

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2547; 06/2000; cited in IDS), in view of Chain et al (Journal of Bacteriology. Vol.182: 5486-5494; 10/2000).

D.) Claims 24-35, 39-42 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rondon et al (Applied and Environmental Microbiology. Vol. 66(6): 2541-2547; 06/2000; cited in IDS), and Chain et al (Journal of Bacteriology. Vol.182: 5486-5494; 10/2000) as applied to claims 24-32, 35, 39-42 and 47 above, and further in view of Groth et al (PNAS. Vol.97: 5995-6100; 2000).

E.) Claims 24-42 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rondon et al (Applied and Environmental Microbiology. Vol. 66(6): 2541-2547; 06/2000; cited in IDS), Chain et al (Journal of Bacteriology. Vol.182: 5486-5494; 10/2000), and Groth et al (PNAS. Vol.97: 5995-6100; 2000) as applied to claims 24-35, 39-42 and 47 above, and further in view of Berg et al (PNAS. Vol.79: 2632-2635; 1982), and if necessary in view of Devine et al (US 5,728,551; 3/17/1998).

F.) Claims 24, 27, 28, 33 and 35 are rejected under **35 U.S.C. 102(b)** as being anticipated by Haldimann et al (Journal of Bacteriology. Vol. 183(21): 6384-6393; 11/2001).

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/JD Schultz, PhD/

Supervisory Patent Examiner, Art Unit 1635